

Date of Hearing: April 24, 2012

ASSEMBLY COMMITTEE ON VETERANS AFFAIRS

Paul J. Cook, Chair

AB 2490 (Butler) – As Introduced: February 24, 2012

SUBJECT: Veterans service officers: correctional facilities

SUMMARY: Designates a parole officer at each facility to assist veterans in filing claims for veterans benefits. Specifically, this bill:

- 1) Requires a parole agent to be appointed as a veterans service officer at any facility that is under CDCR's jurisdiction.
- 2) Makes the veterans service officer responsible for assisting veterans who are inmates in pursuing claims for federal veterans' benefits, or in establishing rights to any other privilege, preference, care, or compensation provided under federal or state law due to honorable military service.
- 3) Allows the veterans service officer to appoint inmates who have served in the military to assist with his or her responsibilities.
- 4) Requires the veterans service officer to coordinate with the United States Department of Veterans Affairs in order to best access earned veterans' benefits.
- 5) Requires the veterans service officer to coordinate with the United States Department of Veterans Affairs and the service officer in the county in which the facility is located for advice, assistance, and training, as well as to evaluate the effectiveness of the program.

EXISTING FEDERAL LAW

- 1) Limits the veterans' benefits a veteran may receive while he or she is incarcerated for a felony, except provides a 60-day grace period where the incarcerated veteran may still receive full benefits. The withholding of benefits begins on the 61st day of incarceration. [38 USCS Section 5313(a)(1); 38 C.F.R. Section 3.666(a).]
- 2) States that an incarcerated veteran is entitled to full benefits while he or she is participating in a work-release program or is residing in a halfway house. [38 USCS Section 5313(a)(2).]
- 3) Allows the dependents of an incarcerated felon to receive an apportionment of the benefits to which the incarcerated veteran would have been entitled, unless the dependent is incarcerated for a felony. [38 USCS Section 5313(b).]
- 4) Prohibits compensation on behalf of a veteran for any period during which he or she is a "fugitive felon." [38 USCS Section 5313B; 38 C.F.R. Section 3.666(n).]
- 5) Defines a "fugitive felon" as a person who is a fugitive by reason of:

- a) Avoiding prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony under the laws of the place from which the person flees; or
 - b) Violating a condition of probation or parole imposed for commission of a felony under Federal or State law. [38 USCS Section 5313B(b).]
- 6) Requires restoration of withheld benefits if a conviction is overturned on appeal. [38 C.F.R. Section 3.666(m).]
- 7) All or any part of the compensation not paid to a veteran may, as appropriate in an individual case, be apportioned under the same terms and conditions to a surviving spouse, child, or children.

EXISTING STATE LAW:

- 1) Contains a number of provisions aimed at assisting California veterans, such as farm and home loan assistance (Military and Veterans Code Sections 987.50 *et seq.*), business enterprise opportunities (Military and Veterans Code Sections 999 to 999.13), and educational assistance (Military and Veterans Code Sections 981 *et seq.*).
- 2) Adopts the same standards used in federal law to determine benefits eligibility for incarcerated veterans.
- 3) Requires CDCR to "conduct assessments of all inmates that include, but are not limited to, data regarding the inmate's history of substance abuse, medical and mental health, education, family background, criminal activity, and social functioning. The assessments shall be used to place inmates in programs that will aid in their reentry to society and that will most likely reduce the inmate's chances of reoffending." (Penal Code Section 3020.)

FISCAL EFFECT: Unknown

COMMENTS:

According to the author,

For many Veterans of the United States Military who are incarcerated, they are unaware of the benefits they are rightfully owed for their service to our country. This bill would create a Veterans Service Officer (VSO) at all Department of Correction facilities to help Veterans receive their benefits they are entitled to. Though veterans cannot collect on their benefits while incarcerated, by having a VSO at each facility they can begin the process and have their rightful benefits ready for them the day they are released.

There have been multiple studies conducted recently that have pointed out a disturbing trend in veterans returning from Iraq and Afghanistan. Approximately one-third of veterans returning received a mental health or psychosocial diagnosis. The rate of Post-Traumatic Stress Disorder in veterans has also increased at greatly, resulting in a higher rate of drug and alcohol abuse by veterans. Mental health and substance abuse problems veterans experience are linked to future

incarceration. In a nutshell, due to the increase of servicemembers in combat areas, there is an increase of veterans in the prison population.

Veterans make up 10% of the prison population in California. Of those veterans, 40% served in the conflicts in Iraq and Afghanistan. It would be a shame if these veterans were released from prison, only to return again due to lack of knowledge regarding benefits they may be eligible to receive, such as job assistance and housing. According the California Correctional Peace Officers Association, "The transition from inmate to parolee is a difficult one for everyone released from prison. To the extent that veterans are eligible for services from the federal government it will ease their transition and thereby reduce recidivism. In our view, the potential benefits of this measure will far exceed its costs."

Veterans who are inmates should be able to have their benefits begin as soon as they are released from prison. By having a VSO in the prison working with the veteran, he/she will have applied for what they can already so that the veteran does not have to wait for months or even years for benefits to kick in, reducing the chance that the veteran will end up in prison again.

Under federal law, incarcerated veterans are only eligible to receive 10% of their existing federal benefits. However, the amount not received by the veteran can be apportioned to the spouse, child or children, and dependent parents of the veteran while the veteran is incarcerated if the proper paperwork is filed.

PRIOR LEGISLATION:

1. AB 589 (Cook), of the 2009-2010 Legislative Session, enabled CDCR to contract with county veterans services to assist an incarcerated, honorably-discharged veteran and/or his or her dependents to any privilege, preference, care or compensation provided by the United States or California.
2. AB 2671 (Salas), of the 2007-08 Legislative Session, would have required CDCR to create a prerelease application process for honorably-discharged incarcerated veterans who are eligible for federal and state benefits. AB 2671 was vetoed.

REGISTERED SUPPORT / OPPOSITION:

Support

American Legion-Department of California (Co-Sponsor)
AMVETS-Department of California (Co-Sponsor)
Vietnam Veterans of America-California State Council (Co-Sponsor)
American Federation of State County and Municipal Employees
California Correctional Peace Officers Association
California Public Defenders Association
Legal Services for Prisoners with Children

Opposition

None on file.

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